

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

BRIAN CHENENSKY, individually, and on  
behalf of all others similarly situated,

Plaintiff,

v.

NEW YORK LIFE INSURANCE CO., NEW  
YORK LIFE INSURANCE AND ANNUITY  
CORP., NY LIFE INSURANCE CO. OF  
ARIZONA,

Defendants.

1:07-cv-11504 (WHP)

*Electronically Filed*

**DEFENDANTS' NOTICE OF MOTION  
TO DENY CLASS CERTIFICATION  
AND STRIKE CLASS ALLEGATIONS**

TO: John Halebian, Esq.  
Lovell Stewart Halebian, LLP  
317 Madison Avenue, 21st Floor  
New York, NY 10017  
*Counsel for Plaintiff*

PLEASE TAKE NOTICE that on December 2, 2010 at 11 a.m. Defendants New York Life Insurance Company, New York Life Insurance and Annuity Corporation and NYLIFE Insurance Company of Arizona (collectively "Defendants"), will move in the United States District Court, at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, 10007, before the Honorable William H. Pauley, for an Order granting Defendants' Motion for Deny Class Certification and Strike Class Allegations;

PLEASE TAKE FURTHER NOTICE that, in support of this motion, Defendants will rely upon: (1) the accompanying Memorandum of Law in Support of Defendants' Motion to Deny Class Certification and Strike Class Allegations; and (2) the Declaration of Sean P. Lynch

in Support of Defendants' Motion to Deny Class Certification and Strike Class Allegations, and the exhibits attached thereto.

Respectfully submitted,

**NEW YORK LIFE INSURANCE CO., NEW  
YORK LIFE INSURANCE AND ANNUITY CORP.  
and NY LIFE INSURANCE CO. OF ARIZONA**

By: s/ Sean P. Lynch

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Dated: September 27, 2010